



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

Minutes of the May 30, 2008, Meeting of the  
Commission on Governmental Ethics and Election Practices  
Held in the PUC Hearing Room,  
PUC Building, 242 State Street, Augusta, Maine

Present: Michael Friedman, Esq. Chair; Hon. David Shiah; Hon. Francis C. Marsano; Hon. Edward M. Youngblood; Hon. Mavourneen Thompson by telephone. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 a.m., Chair Michael Friedman convened the meeting.

The Commission considered the following items:

**Agenda Item #1. Ratification of Minutes of the April 28, 2008, Meeting**

Mr. Youngblood moved and Mr. Marsano seconded the motion to accept the April 28 minutes as drafted.

Mr. Marsano referred to comments on Page 16 of the minutes, saying that the minutes are accurate as written. However, he said that he had sent an e-mail to Jonathan Wayne stating that he was upset that the Commission would not be discussing the advice to be given candidates regarding payments to family members at this meeting. Mr. Friedman said that his view was that the Commission would solicit public comments in order to have them for discussion at the June meeting. Mr. Marsano said that the problem was that the matter was in abeyance with respect to the immediate action and that he thought that the Commission should discuss the revision of the policy to see if it could be implemented in June with the caveat that there may be comments from the public that could cause the Commission to alter the policy it adopted. Mr. Friedman said what Mr. Marsano proposed was one way to handle the matter but that another method was to solicit comments before deciding on the policy rather than having to get the comments and revise the policy all in one meeting. Mr. Marsano said he thought the Commission should have a special meeting after receiving public comment so that the Commission could arrive at a conclusion regarding the policy. He said that the policy had to be implemented before July since this was a major issue

Mr. Friedman said that he would not be opposed to a special meeting on this matter. Ms. Thompson said that she agreed with Mr. Marsano regarding a special meeting.

The motion passed by a vote of 4-0, with Mr. Shiah abstaining since he was not at the April 28 meeting.

**Agenda Item #2. Request for Waiver of Late-Filing Penalty/Lobbyist Jed Rathband**

Mr. Wayne said Mr. Rathband would not be attending the meeting. Mr. Wayne explained that Jed Rathband was registered as a lobbyist for the Maine Association of Agricultural Composters for the 2008 lobbying year. He registered in March 2008, and was required to begin filing monthly reports on April 15. He filed the report eight days late. Mr. Rathband was also the lobbyist for the organization in 2007. He requests a waiver of the penalty because he was in New Orleans helping with hurricane relief leading up to the April 15 filing deadline.

Mr. Marsano moved that no penalty be assessed due to mitigating circumstances. Mr. Shiah seconded the motion. Mr. Marsano said that the mitigating circumstance was Mr. Rathband's voluntary participation in the hurricane relief effort, and that he had no reason to doubt the veracity of the statement.

The motion passed (3-2). Mr. Marsano, Ms. Thompson and Mr. Shiah voted in favor; Mr. Friedman and Mr. Youngblood were opposed.

**Agenda Item #3. Request for Waiver of Late-Filing Penalty/Lobbyist Karen Brown-Mohr**

Ms. Mohr was not present at the meeting. Mr. Wayne explained that Karen Brown-Mohr was registered as a lobbyist for the Manufactured Housing Association of Maine for the 2008 lobbying year. She filed the monthly report due April 15, three days late after receiving a reminder from the Commission staff. She requests a waiver because of a serious medical illness in her family.

Mr. Shiah moved to accept the staff recommendation of no penalty. Mr. Youngblood seconded the motion.

The motion passed unanimously (5-0).

**Agenda Item #4. Assessment of \$10 Civil Forfeiture against Four Unregistered Candidates**

Mr. Wayne explained that all four candidates had registered with the Commission as of the day of the meeting and he requested that the item be withdrawn. Mr. Friedman asked if there was any opposition to withdrawing the item; there being none, the item was withdrawn.

**Agenda Item #5. Audit of 2007 Special Election Candidate Katharine M. Smith**

Mr. Wayne explained that Kate Smith was a Maine Clean Election Act (MCEA) candidate in the 2007 special election. The Commission staff conducted an audit of her campaign because her check she used to return her unspent MCEA money was returned for insufficient funds. The audit did not reveal any misuse of public funds. The audit report contained one minor finding, which was an unreported \$45 seed money contribution. He said the staff recommendation is to find her in violation for under-reporting seed money contributions with no penalty.

Mr. Marsano moved to adopt the staff recommendation. Ms. Thompson seconded the motion.

The motion passed (5-0).

**Agenda Item #6. Future Commission Meeting dates**

Discussion took place regarding meeting dates for the remainder of 2008. The PUC Hearing room is available on Mondays and Fridays until 2:30 p.m. It was agreed to establish a set day of the month for the remainder of the year. The last Monday of the month was the most agreeable for all members. The following dates were set for future meetings: July 28, August 25, September 29, October 27, November 24, and December 29. It was decided to look at the issue again in November to set the 2009 winter dates.

**Other Business**

Mr. Marsano said he was approached by a candidate in a contested race in the upcoming primary election who said that his opponent (Kenneth Lindell, candidate for the Republican nomination for House District 41) was using signs that had the word “re-elect” in the sign even though the opponent is not an incumbent. The candidate went on to say that the Commission had approved it. Mr. Marsano said that he told the candidate that he (Mr. Marsano) was on the Ethics Commission and the Ethics Commission had not heard anything about this issue. Mr. Marsano said that Mr. Lindell’s e-mail to the staff clearly asks for the opinion of the Commission. Mr. Marsano thought that the response to Mr. Lindell from Assistant Director

Paul Lavin was an off-the-cuff legal opinion. He thought that the response should have also made a reference to the Maine Code of Fair Campaign Practices, which has language in it that is broad enough to cause Mr. Lindell to focus on what he was doing in using the word “re-elect” in a campaign sign. Mr. Marsano said that he was disturbed that Mr. Lavin did not point out in his e-mail response to Mr. Lindell that the use of the word “re-elect” in the context of a primary election did not make any sense.

Mr. Marsano also said that he was disturbed by several items contained in Mr. Wayne’s response to Mr. Marsano’s e-mail in which he first brought this issue up. The first statement in Mr. Wayne’s e-mail to which Mr. Marsano objected was that “the Commission is not authorized by statute to offer opinions about whether campaign speech is truthful or misleading.” Mr. Marsano was not certain whether there was an omission and Mr. Wayne meant to say that the Commission staff was not authorized to offer opinions. He said that he would agree that the Commission staff is not so authorized. He said that if the Code of Fair Campaign Practices (21-A M.R.S.A. § 1101(2)) is in place, then the logical body to deal with matters arising under that statute would be the Commission. Mr. Marsano said that Mr. Wayne referred to several inquiries of this sort. Mr. Marsano thought that all those inquiries ought to be referred to the Commission to take action and that the staff should not take action on them as Mr. Lavin did regarding Mr. Lindell’s signs.

Mr. Marsano said that when the candidate approached him, he said that the Commission had done something, which to Mr. Marsano was on a significant issue, *i.e.*, the use of the word “re-elect” on a campaign sign. Mr. Marsano said that he thought there was a serious question as to whether a candidate could even use the word “re-elect” in a primary election.

Mr. Marsano said that the aspect of this matter which upset him the most is that the process should be open so that all the Commission members and others could express their views and make inquiries in the public domain.

Mr. Wayne said the staff will handle these matters in whatever fashion the Commission would like. He said that there are many people in the political process who want quick and informal advice. Candidates and others are not experts in election law and they turn to the Commission staff as subject matter experts. It was in this context that this matter came to the staff. Mr. Wayne said that Mr. Lavin attempted to respond to the direct legal question about whether there was anything in the law that precluded the

candidate from using the word “re-elect” on his campaign signs. Mr. Wayne said that there may be matters that are of enough seriousness and that relate to the Code of Fair Campaign Practices that the Commission would prefer that the staff not handle. If the staff has been asked a straightforward question about what the law says or does not say, the staff’s past practice has been to provide an answer that the staff was comfortable with.

Mr. Wayne said that there was a matter brought by a private citizen that came before the Commission during the 2006 elections involving campaign literature of David Miramant that the complainant alleged misrepresented the legislative voting record of Mr. Miramant’s opponent, Rep. Stephen Bowen. The complaint was brought under the Code of Fair Campaign Practices. The Commission considered the matter at a meeting. Because the statute did not expressly authorize the Commission to take any action when the Code was violated, the Commission, at that time, decided not to take any action on that complaint.

Mr. Wayne said that subsequent to the Commission’s decision in that case, the complainant asked his state senator, Sen. Christine Savage, to bring forward a bill that would authorize this Commission to punish candidates who violated the Code. The bill did not get out of committee.

Mr. Wayne said that the staff strives to be consistent with the advice given and decisions made by the Commission in the past. In the past, Commission members did not want to get involved in disagreements about whether campaign literature is accurate or not. Mr. Wayne said that is the reason Mr. Lavin felt comfortable commenting on the legal question but did not want to make any comment on whether the campaign literature was misleading.

Though it was not clearly stated in Mr. Lavin’s e-mail to Mr. Lindell, Mr. Wayne said that the staff’s practice in responding to requests for advice involving tricky issues is to say that the staff’s advice is not binding on the Commission and that it is based on the staff’s interpretation of the law but that the Commission may interpret the law differently. If the person wants more authoritative advice, the question can be brought to the Commission at a regular meeting. The staff acts this way in order to give prompt advice with the understanding that it is less formal than the advice the Commission would give.

Mr. Marsano said that the seminal question was “to inquire whether it is the opinion of the commission that this is misleading.” He said that the statute [21-A M.R.S.A. § 1101] does not have any specific provisions in it. However, he thought that there were portions of the statute that would cover an investigation of this sort. Mr. Marsano said that there was no reason not to address the existence of the Code of Fair Campaign Practices even if there is not going to be a decision made. For the Commission or the staff to do nothing about whether the word “re-elect” is misleading is, in Mr. Marsano’s view, cowardly. Mr. Marsano said that it was the Commission’s job to make decisions of this sort and deal with the consequences, but the decision should be made in the open. This issue would not have come up if the candidate did not talk to Mr. Marsano about it. Mr. Marsano said that issues of this type should come to the Commission even if the Commission decides to adhere to the policy Mr. Wayne outlined.

Mr. Friedman said that it is important to maintain a balance between providing quick advice from the staff to participants in the election process and providing the level of certainty that comes from a Commission decision or opinion. If someone had filed a complaint regarding Mr. Lindell’s signs, the matter would have come before the Commission at a meeting. But no complaint was filed in this case. The Commission has to have confidence in the staff who are the experts in handling the day-to-day issues. Mr. Friedman said that the Commission is the ultimate decision-maker but did not think that every question ought to come before the Commission. He also said that he did not think that the Legislature would be happy if the staff stopped giving advice. Mr. Friedman said that the staff’s usual practice is to state that the advice is from the staff and that if someone has a problem with the staff advice, it should be brought to the Commission to make the ultimate decision.

Mr. Friedman did not feel quite as aggrieved as Mr. Marsano did with the factual pattern in this case. He did not think that there was anything wrong in the advice that Mr. Lavin gave or in Mr. Wayne’s backing up that advice in the manner in which it was given.

Mr. Youngblood agreed with Mr. Friedman that there was a fine line. He said that the staff ought to be able to decide whether an inquiry is of such significance that the staff is uncomfortable in making a recommendation and that the inquiry should be decided upon by the Commission. Mr. Shiah said that the staff’s handling of the issue was fine. Quick advice to candidates is very appropriate. He said that he did not think it would be appropriate for the Commission to handle all the questions that come up, especially in an election cycle. Mr. Shiah said he agrees with Mr. Friedman and Mr. Youngblood.

Ms. Thompson said that she agrees with Mr. Marsano's points about transparency and openness. She agrees that there is a fine line and that the staff needs to give answers. She said that the Commission is not a full time commission and will not always be there to give answers. However, in this particular incident, she thought that there might be a caveat that the staff would give someone such as Mr. Marsano's friend who thought that Mr. Lindell's use of the word "re-elect" was misleading. The staff could give that person a caveat that states that the individual has the right as a citizen to make a complaint about an issue and how to bring a complaint to the Commission. Ms. Thompson asked for a confirmation that complaints would come before the Commission.

Mr. Wayne confirmed that a complaint would come before the Commission unless the matter was clearly outside the Commission's jurisdiction. However, in this case, it was the candidate whose signs used the word "re-elect" asking for advice, rather than another individual complaining that the sign was misleading. If a complaint had been filed, it would have come before the Commission.

Ms. Thompson said that rather than asking whether there was a statute or rule that would prohibit Mr. Lindell from using the word "re-elect," the better question would have been whether it is appropriate to use the word "re-elect" when someone is not currently in the Legislature. Ms. Thompson said that Mr. Lindell wanted a black and white answer to a question that is ambiguous. She stated that it is the Commission's role to figure out whether something is misleading speech without actually restricting speech. If someone were to make a complaint that a non-incumbent candidate was using the word "re-elect" on campaign signs, that is an issue that ought to come before the Commission because there is a misleading aspect about that. Ms. Thompson said that she would welcome that complaint because that is the type of issue the Commission should be dealing with.

Ms. Thompson said that if the question that Mr. Marsano was raising is whether the staff was over-reaching in responding to this particular question, she thought that there was some appropriate sensitivity there. Mr. Marsano knows that there is a full time staff that needs to monitor questions. The Commission does not serve full time. She thought that there was a lesson to be learned by the staff at this point that the answer to Mr. Lindell on this particular issue might have been handled somewhat differently because Mr. Marsano is a Commissioner and a friend of his has questioned an issue.

Ms. Thompson said that there were two issues. First, is using the word “re-elect” in this particular instance correct or not correct? She thought that was an issue that ought to come before the Commission and hoped that someone would file a complaint to make that issue come before the Commission. Second, is there something to be learned by the staff in terms of the Commissioners’ concern about the staff’s answer to this particular question?

Mr. Wayne said that he was learning what Mr. Marsano’s and Ms. Thompson’s views were, which were that they wished that the staff had gone further in its advice by suggesting to Mr. Lindell that it was misleading and that he should at least think about whether people could find it misleading, and that they thought that the staff should have brought Mr. Lindell’s attention to the Code. Mr. Wayne said that if the other three Commission members, in addition to Mr. Marsano and Ms. Thompson, are comfortable with those views, the staff will be stronger in its advice. Mr. Wayne said, in his view, this was obviously misleading and that he very much regrets that the staff’s advice was characterized as the approval of the Commission, which was not accurate. Going into this meeting, Mr. Wayne said that he approved of the way Mr. Lavin handled the matter, but having heard the Commission members’ advice, he would like to suggest that the staff handle it differently. Mr. Wayne said that if Mr. Friedman, Mr. Youngblood, and Mr. Shiah are comfortable with it, the staff will be clear that the staff is not offering an opinion of the Commission, and that if a candidate is asking for advice on whether something is misleading and it is obvious that it is, the staff can be stronger in saying that, in the personal opinion of the staff, there seems to be a problem and the candidate may want to think twice about it. Depending on how strong the Commission wants the staff to be, the staff can express that kind of opinion. Previously, the staff felt obliged to be somewhat hands-off.

Mr. Friedman asked Ms. Gardiner if she wanted to comment.

Ms. Gardiner said that she would offer a caution. Regarding the substantive issue, she thought that the staff’s conservative approach was appropriate under First Amendment principles. The Commission has to be cautious about weighing in as to what is or is not misleading campaign speech where the Commission does not have an enforcement role. She said that she and the staff looked extensively into the legislative history when the complaint involving Mr. Bowen came up. She researched the legislative history regarding the Code of Fair Campaign Practices Act. The original bill did include a provision for such complaints to come to the Commission for adjudication and for the imposition of penalties. That provision did not pass



and would probably have been challenged on constitutional grounds had it passed. Ms. Gardiner thought it was likely that the challenge would have been successful. If the Commission wants to express its views as to what is or is not misleading speech without any enforcement authority, it would be appropriate to be cautious in this area. The courts generally frown upon a government agency weighing in on speech. This is a difficult issue because there is the Code of Fair Campaign Practices in the law, which begs the question of what is the proper forum for a complaint by someone who thinks the Code has been violated. When this question was before the Commission two years ago, the conclusion was that the Commission was the proper forum. It is tricky when there is no remedy provided in the statute other than the opportunity to air the issue in a public forum. Ms. Gardiner said that this was a part of the procedural issue the Commission was dealing with – should it be aired in every instance or should it be aired only if there is a complaint, which is the Commission’s usual procedure.

Mr. Marsano said that what he really wanted was information. He would like it to be something that the Commission heard about. If there was a complaint, Mr. Marsano said that it does not necessarily have to come to the Commission for deliberation, but he would like to know that the issue had been raised and what had been said, so that if he wanted, he could ask to put it on the agenda for discussion, even if the Commission did not have the right to issue an ultimate opinion. Mr. Marsano expressed his concern that a decision made by the Commission two years ago was not readily available to the Commission members, making it difficult for them to function as Commissioners who are dealing with an issue which is seen in parts of Waldo County as the Ethics Commission doing nothing about an ethical issue. Mr. Marsano said that bothered him.

Ms. Thompson recalled that, in previous years, there were several instances in which the Commission was called upon to discuss whether the speech in campaign documents and signs was misleading. Ms. Thompson asked whether the Commission can take up this issue regarding a candidate who is not currently a member of the Legislature using the word “re-elect” on campaign signs, even if a complaint has not been filed. Ms. Thompson said that she was struck by Mr. Marsano’s statement that people in Waldo County think that the Ethics Commission is doing nothing about an ethical issue. She asked whether the Commission has the jurisdiction to discuss the use of the word “re-elect” in this particular incident.

Mr. Wayne said there was an article on a newspaper's website which suggested that the Commission had approved these signs. Mr. Wayne suggested that if the Commission thought that it would be a partial remedy to this situation, he could draft a letter to the editor or some other kind of communication to the newspaper saying that the Commission did not approve this practice.

Ms. Thompson asked whether the Commission had the authority to discuss this and to say whether it is or is not appropriate.

Mr. Friedman said he believes the Commission has the authority if a complaint is brought before it, but there is a question of whether there is a remedy to go with that authority, other than telling someone that we think that it is unethical and that that person ought to make a change, and let the papers run with that. He said when there is an issue that does not have a clear-cut remedy, the Commission only has the bully pulpit. Mr. Friedman said that he believed that the Commission can deal with any election issue, even though he knows that sounds overly broad. Mr. Friedman asked if an issue deals with an election, where would someone go other than the Commission? Whether the Commission has specific authority can be determined when the complaint comes to the Commission. Mr. Friedman said that, speaking generally, he wants to hear if there are election complaints.

Mr. Friedman said that he understood this problem to be that Mr. Lindell, who is not the complainant, simply called the Commission and asked questions for which he received answers. Mr. Southworth was upset but did not file a complaint other than talking to Mr. Marsano. That does not give rise to a Commission discussion of the issue as if a complaint had been made. Mr. Friedman said that he did not think that the staff did anything wrong in responding the way they did. However, that does not minimize the fact that if a complaint had been made, it should come before the Commission. It also does not preclude the staff from taking the additional step of saying that some may find the signs misleading. Mr. Lavin did note, perhaps not as directly as some would have liked, the possibility that some may find this to be misleading and that the term "re-elect" is not generally associated with non-incumbents.

Ms. Thompson said that she respects a lot of what Mr. Friedman said. She said that the issue is before the Commission although it is not on the agenda formally. She asked whether a Commission member could put this matter on the agenda for discussion. She also asked whether, in this case, Mr. Marsano would move that a discussion of the use of the word "re-elect" by a non-incumbent be on the agenda at this

meeting or for the next meeting so that the Commission can make a statement, whether enforceable or not, about whether the use of the word “re-elect” by a non-incumbent is or is not ethical.

Mr. Friedman said that, based on what he has heard during the meeting, all the Commission members feel that the use of the word “re-elect” in this instance is at least inappropriate. He said he would not be opposed to the staff going that far when they are asked that question. If someone wants to challenge whether there is a legal justification for that and whatever decisions are made, there are forums for the challenge and astute judges who can decide the issues.

Mr. Marsano stated that under Section 3 of the Commission’s rules, subsection C(1) on “Other Matters,” the rule states “with respect to any other matter presented to the Commission.” Mr. Marsano said that was a simple general statement and it seems to him that it would circumvent the need for a complaint that Mr. Friedman relies upon to an elaborate degree. He said that he thinks that there should be the transparency that he and Ms. Thompson agree should be in place, especially here, and that the views should be made public. He said that there was enough of a basis in that rule to allow the Commission to take up an issue that is presented in some fashion other than a complaint. Mr. Marsano said that he did not mind if the staff gives an opinion that states the staff’s reaction to the issue and also states that the issue will be presented to the Commission which will hear comments and discuss the issue at a public meeting. Mr. Marsano said that he did not think that there would be large numbers of people who would show up as a result. He said that most candidates are good and are responsible people. They intend to do the right thing and want to know what that is. He thinks the Commission can be helpful.

Mr. Marsano said that he would like to see this recognized as a matter to be presented to the Commission, and Mr. Lindell and Mr. Southworth given notice of the meeting. He said that he was concerned about timeliness. If this had been on the agenda for this meeting under the procedure he had outlined, there would be ten days during which the signs could be used or could not be used depending on what the Commission said and what the candidates agreed to, or the Commission’s statement could be ignored because it would be an opinion without enforceability. However, he requested that it be treated, as Ms. Thompson suggested, as a matter presented to the Commission to be acted upon simply to structure a procedure that might help the public understand the Commission’s position and help candidates understand the kinds of caution that the Commission thought best.

Ms. Thompson asked Mr. Marsano if he was proposing a motion that the matter be discussed at this meeting.

Mr. Wayne said that he and Ms. Gardiner thought that Mr. Lindell and Mr. Southworth would want to comment and that Mr. Lindell in particular should be given notice and have an opportunity to speak. Mr. Wayne reminded the Commission members that, within the 28 days before an election, the Commission must meet within one calendar day of the filing of the complaint or question with the Commission. If the Commission decided to proceed with a special meeting on this issue since a question has been posed to the Commission, it could meet by telephone prior to the primary election so that its position could be clarified.

Mr. Marsano said that there was a minimal amount of time in which this could be addressed. He said that he did not have a problem with this matter being addressed in some fashion that is not specifically related to Mr. Lindell and Mr. Southworth. The only sign that he has seen has been appropriate. He did not know whether Mr. Lindell changed his mind after reading Mr. Lavin's e-mail or thinking about what he agreed to in signing the Code of Fair Campaign Practices. Mr. Marsano does think that there needs to be transparency to the discussion. Even if the discussion occurred next month after the fact, if the Commission came to a decision, it would be advice that could be given to other candidates who are thinking of using similar signs.

Mr. Shiah recalled the same issue happening ten or twelve years ago with an incumbent who had lost and ran again using the word "re-elect" in a campaign sign. He agreed that it could be discussed next month. He also acknowledged the free speech issues brought up by Ms. Gardiner.

Mr. Friedman stated the issue is whether the term "re-elect" on a primary campaign sign is appropriate. He asked what would be the result if the Commission deemed it inappropriate other than having the Commission's position made public.

Mr. Youngblood stated that if it did get publicized, it would undoubtedly come out that the Commission was split on that issue. Mr. Youngblood said that is in the area of free speech.

Ms. Thompson moved to put on the next agenda whether a non-incumbent should use the term "re-elect" on his or her campaign signs. Mr. Marsano seconded the motion.

Mr. Shiah asked for a clarification as to whether this would apply to primary and general election campaign signs. Ms. Thompson said that it did. Mr. Marsano agreed.

The motion passed by a vote of 3-2. Ms. Thompson, Mr. Marsano and Mr. Youngblood voted in favor; Mr. Friedman and Mr. Shiah voted to oppose.

Ms. Thompson moved to have the staff immediately write, in response to the internet news report to which Mr. Wayne referred earlier in the meeting, a statement indicating that the Ethics Commission will consider this particular subject at its next meeting. Mr. Marsano seconded the motion.

The motion passed unanimously (5-0).

Mr. Wayne acknowledged that he should have communicated better with the Commission members regarding the family member advice matter and would proceed in the future in a manner that would keep the Commission involved in the process of drafting advice, if that is what the Commission wants. He also informed the Commission that the staff auditor position had been accepted by Sumner Field III, who most recently worked at TD Banknorth. Mr. Wayne said Mr. Field has a great deal of experience and expertise and will be starting in June.

### **Executive Session**

At 10:20 a.m., Mr. Marsano moved to go into executive session in accordance with Section 405, subsection 6(E) of Title 1 for the purpose of discussing pending litigation and possible criminal actions. The motion was seconded by Mr. Youngblood.

The motion passed (5-0).

At 10:40 a.m., Mr. Marsano moved that the Commission come out of executive session. Mr. Shiah seconded the motion. The motion passed (5-0).

Mr. Marsano raised a concern about the earlier motion made by Ms. Thompson on Mr. Wayne's response to the internet news article regarding a candidate's sign. Mr. Marsano moved to amend the motion such

that the notice by Mr. Wayne not be made until after the primary election is complete. Mr. Youngblood seconded the motion.

The motion passed (4-1). Ms. Thompson opposed.

There being no further business, Mr. Shiah moved that the meeting be adjourned. Mr. Marsano seconded the motion, which passed unanimously (5-0). The meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director